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ATTORNEY DOCKET NO. 10031375-1

JPW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Ken A. Nishimura et al.

Serial No.: 10/736,724

Examiner: Hung Nguyen

Filing Date: December 15, 2003

Group Art Unit: 2851

Title: DEFECT MITIGATION IN SPATIAL LIGHT MODULATOR USED FOR
DYNAMIC PHOTOLITHOGRAPHY

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

- ☒ Response/Amendment ☐ Petition to extend time to respond
☐ New fee as calculated below ☐ Supplemental Declaration
☒ No additional fee (Address envelope to "Mail Stop Amendments")
☒ Other: Two Postcards (Fee \$ _____)

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS	25	MINUS	25	= 0	X 50	\$ 0
INDEP. CLAIMS	4	MINUS	4	= 0	X 200	\$ 0
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ 360	\$ 0
EXTENSION FEE	1 ST MONTH 120.00 <input type="checkbox"/>	2 ND MONTH 450.00 <input type="checkbox"/>	3 RD MONTH 1020.00 <input type="checkbox"/>	4 TH MONTH 1590.00 <input type="checkbox"/>	\$ 0	
OTHER FEES						\$ 0
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 0

Charge \$0 to Deposit Account 50-1078. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-1078 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this transmittal letter is enclosed.

Respectfully submitted,

Ken A. Nishimura et al.

By

Holly L. Rudnick
Holly L. Rudnick

Attorney/Agent for Applicant(s)

I hereby certify that this correspondence is being Deposited with the United States Postal Service as First class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Date of Deposit: June 2, 2005

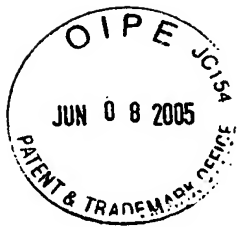
Typed Name: Phil Rudnick

Signature: *Phil Rudnick*

Reg. No. 43,065

Date: June 2, 2005

Telephone No. 214-387-8097



Docket No. 10031375-1
Serial No. 10/736,724
(AGIL01-00219)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of:)

Ken A. Nishimura, et al.)

Serial No. 10/736,724)

Filed: December 15, 2003)

Examiner: Hung Nguyen

Group Art Unit: 2851

For: DEFECT MITIGATION IN SPATIAL LIGHT MODULATOR USED FOR
DYNAMIC PHOTOLITHOGRAPHY

MAIL STOP AMENDMENT
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited
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Date of Deposit: June 2, 2005

Signature: _____

Dear Sir:

RESPONSE TO RESTRICTION REQUIREMENT

A Restriction Requirement was issued in the present patent application on May 20, 2005, with a shortened time period for responding ending on June 20, 2005.

The Restriction Requirement identified the following groups of the claimed invention:

Group I: Claims 1-10, drawn to a process

Group II: Claims 11-25, drawn to an apparatus

In response to the Restriction Requirement, the Applicants provisionally elect the claims of Group II for prosecution on the merits WITH TRAVERSE.

The Restriction Requirement states that the inventions in Group I and Group II are related as a process and apparatus for its practice. The Restriction Requirement further cites MPEP 806.05(e) as providing the basis for determining distinctiveness between Group I and Group II. Specifically, MPEP 806.05(e) requires the Examiner to demonstrate that either (1) the process as claimed can be practiced by another materially different apparatus or by hand; or (2) the apparatus as claimed can be used to practice another and materially different process to show distinctiveness between Group I and Group II. The Applicants respectfully submit that the Examiner has not made such a showing.

In section 2 of the Restriction Requirement, the Examiner stated that the apparatus as claimed in Claims 11-25 can be used to practice another and materially different process, such as a process for fabricating a semiconductor integrated circuit device and a spatial light modulator inspection method. However, the process claimed in Claims 1-10 is merely a “method for performing photolithography,” which is inherently included in a semiconductor integrated circuit fabrication process or an inspection process practiced using the “photolithography apparatus” claimed in Claims 11-25. Thus, the processes of “fabricating semiconductor integrated circuit devices” and “spatial light modulator inspection method” are not processes materially different from the “photolithography” process claimed in Claims 1-10.

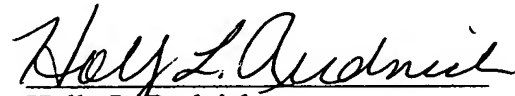
As a result, the Examiner has not demonstrated that the photolithography apparatus claims (Claims 11-25) can be used to practice a process materially from the “method for performing photolithography” claimed in Claims 1-10. Therefore, the Applicants respectfully request the Examiner to withdraw the restriction requirement.

If any issue arises, or if the Examiner has any suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *hrudnick@texaspatents.com*.

Respectfully submitted,

KEN A. NISHIMURA, ET AL.

Date: 6/2/2005


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